

**Tribal Infrastructure Task Force Meeting Summary**  
**January 18, 2012 2:00-3:30 PM**

**A. Introductions**

Andrew Baca, U.S. Environmental Protection Agency (EPA) Office of Solid Waste and  
Emergency Response (OSWER)  
Dana Baer, Indian Health Service (IHS) Sanitation Facilities Construction (SFC) Program  
Jennifer Bullough, U.S. Department of Housing and Urban Development (HUD) Office of  
Native American Programs  
Marie Barry, Environmental Program Director, Washoe Tribe of Nevada and California  
Marta Burg, EPA, Region 9 Tribal Caucus  
Mark Charlie, Association of Village Council Presidents (AVCP), Bethel AK  
Dave Clark, Rural Communities Assistance Partnership (RCAP)  
Sheila Frace, EPA Office of Water (OW), Office of Wastewater Management (OWM)  
Greg Gwaltney, EPA, OW, OWM  
David Harvey, EPA OW, Office of Ground Water and Drinking Water (OGWDW)  
Kellie Kubena, EPA OW, OWM  
Shaun Livermore, Poarch Band of Creek Indians Utility Authority  
Hal Nielson, U.S. Department of Agriculture (USDA), Rural Development Utilities Program  
Stephen Poloncsik, EPA Region 5  
Jacki Ponti-Lazaruk, USDA, Rural Development Utilities Program  
Nate Rawding, Horsley Witten Group, Inc.  
Linda Reeves, EPA Region 9  
Matt Richardson, EPA OWM  
Ben Shuman, USDA  
Lynn Stabenfeldt, EPA OW, OWM  
John Wheaton, Nez Perce Tribe (NPT), Idaho  
Michaelle Wilson, EPA Office of Resource Conservation and Recovery (ORCC)  
Felicia Wright, EPA OW

**B. Welcome, Introductions, and Review of ITF Road Map (Matt Richardson)**

In 2011, the infrastructure task force (ITF) group met at the federal principal level and decided to refocus how the federal programs operate, to incorporate sustainability in addition to first time access. As a result, a Goals and Concepts document was created last fall which was reviewed and finalized by the ITF. In addition, an online website was created in 2011 to host documents, and several listening sessions on tribal organizations were held. The focus of this ITF call is to hear from John Wheaton, Utility Planner, from the Nez Perce Tribe (NPT) in Idaho and to discuss commonalities from the listening sessions.

Since the ITF last met in December, a summary of the themes heard during the listening sessions was developed, and is provided in the “Commonalities” document that was emailed with the agenda for today’s meeting. This is the first draft of the Commonalities document, and ideas and comments from other ITF members should be sent to Matt Richardson. With these materials, the

federal partners aim to prioritize their programs and to potentially modify how funds are distributed through the federal programs.

Notes from the December call were also sent out in draft form, and any corrections should be emailed to Matt Richardson so the notes can be posted to the website.

### **C. The Nez Perce Tribe: Approaches to Sustainable Water Resources and Discussion (John Wheaton)**

The documents sent prior to the call provide a summary of the Tribe's utilities and current state of operations.

In 2003, the utility was requested to take over some of the programs that were funded by HUD as a result of decreased funding. These programs needed to be sustained through tribal funding or contracted out. At the same time, rural areas were struggling with their shared jurisdiction and partnership with the Tribe. The Tribe took the lead, and at that time, John Wheaton's predecessor, Lori Morin, an engineer, worked with the water operations in creating operations and maintenance (O&M) plans. In doing that, the tribe was able to create a utility board and draft the bylaws for the utility.

Before the code was developed, the NPT did not charge for water or wastewater services provided to customers. Utility billing for the services was implemented in 2004. There were several challenges to implementing billing, such as identifying all homes and providing notice to the public.

John Wheaton joined the utility as utility planner in 2008. His background is in public administration, education, and social science. After joining the utility, he found that documentation was unorganized and incomplete. Some IHS records on certain projects helped him transition to his position. In addition to water and wastewater services, John oversees solid waste, and is a member of the energy committee. The energy committee is currently conducting a waste-to-energy feasibility study with the Department of the Interior (DOI).

The utility has a partnership with two cities: the City of Lapwai and the City of Kamiah. In Kamiah the utility is working on several different projects. In 2004, the City of East Kamiah was able to fund the septic leakage deficiencies, and put in a line that connected the region to the wastewater treatment plant. However, the project fell short of funds, and the utility is unable to provide sustainable O&M due to the large amount of emergencies that have occurred. The utility has two lift stations on this project, and is currently working with USDA to fund another lift station, add more cleanouts, and add grinder pumps to eliminate blockages. Blockages are the most frequent type of emergency that the utility experiences. The utility is educating customers on items to avoid putting down the drain to reduce blockages.

In addition, ARRA funds were used to add a water pump house to provide more capacity to the two current water tanks, including a 60,000 gallon tank. The utility was looking to increase storage for the 50 residents that are served in the area. After construction, several hoses connected to the chemical feed pumps were corroding due to exposure to chlorine, and needed to

be replaced immediately. The utility also experienced issues with the control panel when the new water pump house was connected. These problems have increased the O&M costs for the utility.

Currently, the utility has three operators, a technician, an aid, a billing clerk, and a coordinator. Previously, the utility had been staffed by only two operators and a billing clerk, and it had been very difficult to sustain the operations. With the implementation of Lapwai Valley regional wastewater treatment project, the utility needed more staff. In addition, the utility needed to improve accountability for its revenue and expenses. When the utility was estimating collection fees, there was a miscommunication between the utility and the city that was difficult to resolve. The utility will begin billing for about 190 new connections, i.e., 363 equivalent dwelling units (EDUs). These connections are for tribal offices, a school, and the Nez Perce tribal housing rented units. The utility will be responsible for collecting the majority of fees. However, certain services are seen as an “entitlement,” such as services to the home of a tribal member, and fee collection is challenging. Similar billing issues have been raised during previous ITF meetings. The utility is working on educating the community and is trying to find grants to help with education.

The water and wastewater operations are currently under the umbrella of the Water Resources Division. There are some existing avenues for education and communication outreach through the division. John’s position is funded 100% through the EPA GAP funding, and he helps with coordination on IHS projects and with regional representatives from USDA. John is currently working with Jeff Beeman at USDA who provided valuable assistance to help increase O&M sustainability for the utility. Improving the O&M is important because the utility is currently losing approximately \$40,000 dollars a year on emergency funds for contracting.

The utility is working on several issues, including the replacement of fire hydrants that are not operational. The utility also purchased a small backhoe that helps them operate more sustainability. Approximately 60% of the water meters do not work properly. The utility is conducting a water study with IHS to determine the locations of leaks, and identify homes with meters that need to be replaced. The utility is trying to upgrade to a digital meter reading system, so the readings can be made more easily in bad weather. Digital meters can be read from a car, and can be tied into software on a computer. The utility currently uses a spreadsheet for meter readings. Billings are about 30% delinquent.

John pointed to the supplemental information on recent projects contained on the slides. For these projects, the National Historic Preservation Act guides the construction schedule. Several archeology sites have been protected. The utility has worked with EPA to obtain a National Pollutant Discharge Elimination System (NPDES) permit for the wastewater treatment plant – using a membrane/bio-reactor system to treat the wastewater to Class A before it is discharged into the Clear Water River. The wastewater is currently also discharging through a drain field on tribal lands, which is considered a secondary discharge. Through the permitting process, the utility has been increasing its ability to discharge treated wastewater to the Clear Water River. The utility is also installing a UV light treatment system.

The utility is currently labeled as a water and wastewater authority but is working on including solid waste and energy in its code.

## **Questions**

Michaëlle Wilson: Does the Tribe provide pickup for solid waste and recyclables? Is there a transfer station?

The Tribe recently received an award for \$65,000 to develop a recycling center. The main goal was to purchase a bailer and a forklift. The utility has a make-shift warehouse that the Tribe dedicated to that purpose. It had not been used in a few decades. The utility is using the funds to purchase items, but also upgrade the facility (e.g., add restrooms). The Tribe's Forest Enterprises donated a used truck that had been decommissioned, and a local sanitation company donated trailers. The goal is to have the facility operating by mid-summer with a collection fee. Money is available for the equipment, but the utility is looking for funding for the education component and possibly community drop stations.

Jennifer Bullough: Did the utility take over services from HUD as a result of the Native American Housing Assistance and Self Determination Act of 1996 (NAHASDA)?

The Tribe was in the middle of transitioning its utility services when NAHASDA took effect. Originally, the HUD program was managed by the NPT housing, but when the program changed, they wanted dedicate more of their funds towards other things, so it was proposed to have a tribal utility take over the utility services. Prior to NAHASDA, funding had been available for utility services, such as operators managing the water towers, and cleanouts for the wastewater lines. After these services stopped being funded, the NPT housing did not want to take on another entity to manage, and asked the Tribe to move these operations to a tribal utility.

Jennifer mentioned that she was involved in the old housing programs under the 1937 Housing Act and was not aware that the HUD funds were used for these types of water and wastewater operations. It appears that the NAHASDA statutes did not include infrastructure operation, so some tribes had difficulty covering the services that used to be covered by the old HUD development funding.

John Wheaton noted that this was his understanding of what took place, but that he is unsure of what exactly happened to the HUD programs since it was before his time.

David Harvey: The supplemental materials mention funding for a wastewater treatment project, from a variety of sources – EPA, IHS, and USDA (\$2 million loan). This loan would require O&M cost estimates for loan repayments. The O&M costs listed are \$66 per connection, with the 30% delinquency rate, how would that work? Do you work with the local RD office to reduce the delinquency rate?

The utility is working diligently on reducing the delinquency rate. The local RD office offered a contractual Rural Community Assistance Corporation (RCAC) entity that was able to come in and assist. The RCAC entity developed a spreadsheet to account for the two entities in the project – the City of Lapwai and the NPT. The City of Lapwai only bought capacity in the wastewater treatment plant, whereas the NPT has taken on the full ownership and was able to pay more and get the loan funding.

IHS also contributed some ARRA funds for the project. ARRA represented last minute funding the utility capitalized on to offset some of the funding needs, but the \$2 million dollar loan was still needed from USDA to cover the remaining balance. The \$66 per connection was later revised to \$43 dollars per connection, and was approved. The \$66 rate per connection would help the utility operate sustainably, but a number of factors entered into the current rate.

The \$43 cost per connection was aimed at achieving parity with the City of Lapwai which set their cost at \$47, because they received \$300,000 dollars in additional bonding from their City. The NPT had already secured the funding and had the financing set. The disadvantage for the City is they did not have any expertise in water and wastewater, whereas the NPT was able to work with all the divisions of the Tribe. The Tribe's divisions were also able to work with USDA, and the City of Lapwai.

The City of Lapwai is going through their own organization transition, and changes assessing their billing, to make sure that they can sustain their city operations. They have to pay a \$92,000 per year buy-in for the capacity in the treatment plant, which is \$7,500 month. That is a large burden for them. The City of Lapwai originally had all their connections tied into their wastewater lagoons. The utility hopes to work with the City of Lapwai, to increase the amount of connections into the treatment plant from the region and lower their share of the costs.

The O&M costs are allocated based on the flow percentages, which are currently a 55/45 split between the Tribe and the City. The utility is estimating that future development may add an additional 150 connections, which could decrease the percentage of costs allocated to the City. John mentioned that he tries to educate the City on how to work together and to share ideas to improve the project.

The NPT is not seeking any more funds for this project, but funding is needed for other projects that could be done by the utility. For example, there is no cover on the headworks. If the screw on the headworks freezes it will cost the Tribe close to \$80,000 to repair. The overall costs could be as much as \$200,000 if the issue causes plant shut down. In addition, the utility would like funds to assess the feasibility of land drainage.

#### **D. Introduction of Draft Commonalities Document (Sheila Frace)**

Sheila introduced the Draft Commonalities document that was created from the common themes identified during discussion with tribal utilities. The Commonalities document identifies common issues and solutions from tribal utilities, and what is needed for them to operate in a sustainable way. The document is only two pages, and was sent out by Matt Richardson along with the agenda for today's meeting.

The document will be used to identify ways for federal partners and programs to help tribes move towards sustainable operations. The items in the document could apply to most water utilities across the nation both tribal and non-tribal. Sheila Frace provided a summary of the items contained in the Commonalities document.

### *1. Maintaining Utility Independence*

This was a consistent issue raised during the listening sessions. Unless the utility is isolated from politics, it is subject to the whims of the politics at any moment, and this is not consistent with being sustainable. Also, the ability/authority to disconnect homes and businesses if fees are not paid is important. For example, the speaker from ARUC mentioned the importance of reviewing the billing and collections before taking over operations for a system. Another item is having a champion, meaning there is at least one committed administrator and one committed operator. Without these two people a utility cannot function sustainably.

### *2. Training and Retaining Operators*

It is important to acknowledge the key role that operators play. The position is not a part-time, or a voluntary job. It is an important role, and proper training is needed. Operators need to have necessary supplies and resources to get the job done, which came through in many of the discussions.

### *3. Running the utility as a business*

This includes the payment of staff and billing for services. There is some crosswalk between the revenues and the cost of maintaining a water system. One tribe talked about including a charge for seven-year replacement costs in the budget. Funds can be provided by the tribe itself, or can come from revenue streams to cover O&M, financial commitments, and the seven year replacement costs.

### *4. Establishing a fair and accepted billing and collection system*

The importance of the authority of a utility to disconnect users for non-payment was noted. One discussion included a story about a user who ended up paying more in reconnection fees than for the water itself. Education for customers on the billing and collection system was another important feature.

### *5. Educating consumers and the tribe*

People who are not associated with the utilities do not understand what is required to get potable water to homes and to address stormwater and wastewater in a safe and efficient manner. Most of these presentations addressed the need and value of education for consumers and the tribal leaders.

### *6. Subsidizing the utility*

The need to subsidize the utility may result from the challenging economic situation of many tribes, their isolation, and the challenges with economies of scale. There was discussion about additional revenue sources as a way to subsidize water and wastewater operations. For example, some tribes had electricity, gas, telecommunication utilities, and one mentioned a casino. The ability to have other forms of funding to use for the water utility was noted.

## *7. Best practices*

Additional best practices noted during presentations included being proactive by planning for repairs/replacements costs, identifying saving opportunities, and adopting efficiency measures for energy/water. The final area that came across in several instances, was building trust and accountability within the tribe and the council. For many utilities this seems to be the first and a key step. The education of the tribal leadership was important so that they understand why the utility needs what it is requesting.

### **E. Commonalities Discussion (All)**

Sheila Frace asked for opinions and comments on the commonalities that were summarized, and whether anything was left out.

John Wheaton: Regarding the ability and authority to disconnect for non-payment, one needs to keep in mind that each tribal entity can be very unique. In the case of the NPT, homeowners are on tribal trust land, so they don't have the ability to increase the value of that home. Normally, there is a high incentive for homeowners to connect to a sewer system and move away from a septic system because it will increase the value of their home. Since the tribal members do not have the ability to increase the value of their homes they may not have the incentive to connect to a centralized system.

David Harvey clarified that this point would apply to communities that are already connected to a water system or a sewer system. David also agreed with John's comment about the lack of incentives for getting tribal members to connect to a community water system. David stated that a well functioning utility would have a shutoff policy that is enforced without discrimination and have consequences for non-payment.

Linda Reeves: Regarding economies of scale, large tribes are often able to subsidize their water systems with other services such as electrical, propane delivery, and other activities. In addition, for smaller communities, an organization such as ARUC was able to achieve the economies of scale for these communities.

Sheila Frace highlighted how important partnerships are to achieve economies of scale.

Marta Burg: Regarding economies of scale, the fewer the homes connected, the more expensive a system is to operate. Certain places do not have the ability to cover the cost of operating a system solely through rates. Marta commented that it is important to acknowledge that even with all the best practices identified in the Commonalities document, it may not be possible to operate sustainably. Marta volunteered to put more thought in this issue and identify how to best incorporate it into Commonalities document.

Marie Barry: Approximately a quarter of federally recognized tribes are located in Region 9. For the tribes that have water systems, Marie believes that more than 50% are not sustainable, and they may or may not become sustainable with the items that are identified.

Jacki Ponti-Lazaruk: Was Marta's point that a number of tribal systems can never hope to be sustainable even if they follow all these best practices because there is not enough revenue/funding within the tribe?

Marta Burg responded that there are some tribes that are facing issues with funding and they are likely going to remain in that position. Marta did not know the exact number of tribes, and asked if Linda has a similar belief about this issue.

Linda Reeves: Linda does not have an exact number of tribes for which this would apply, but the previous infrastructure taskforce came to a consensus that this is a gray area. Some tribes are able to have a system operating and providing water, but many routine maintenance activities are not getting funded and getting done. There are anecdotal stories about systems that are very marginal in their ability to handle any changes.

Marta Burg noted that if a system is very expensive to operate, maybe as time goes by and improved technology becomes available, it will reduce the costs to operate, however, this technology has a capital cost associated with it.

Jacki Ponti-Lazaruk added that it is difficult to advocate for additional funding if there is no hope of sustainability short of the federal government providing everything. Jacki expressed hope that enough systems could reach sustainability, and that federal partners could use funds to better help those that are struggling on the other end of the spectrum.

Marta Burg further noted that it could be very helpful to study the O&M needs of tribes under various circumstances, particularly for those who are struggling to determine the basis for their ability to self-sustain and what short or long term steps can be taken to move systems of different sizes towards sustainability. Previously gathered information suggests these tribes have a significant hurdle to overcome. Anything that federal agencies can do to assess this issue and what is needed to overcome it, including subsidization with funding, should be considered.

Marie Barry: In the Commonalities document, the wording in *Subsidizing the Utility* should be broadened to say "tribal economic enterprise" rather than "tribal casino" because not all tribes have casinos. Sheila responded that they could make this change to the document, and that the language was likely from a presentation where a tribe has a casino.

Sheila mentioned that any additional comments on the Commonalities document should be emailed to Matt Richardson. The document will serve as a discussion piece to identify activities for federal partners to help tribes improve sustainability so that more of the infrastructure dollars are available to help achieve access goals.



## **F. Proposed Future Activities**

### *Business Training for Tribal Councils/Board of Directors (Jackie Ponti-Lazaruk)*

Budgets in Washington D.C. have been reduced this year and are expected to be reduced again next year, but the federal partners will continue to do what they can with the funding they have and they will continue to fund systems.

The Commonalities document identifies a number of actions that utility managers can take to help improve the operation of the utility, and ultimately its sustainability. Programs are available at EPA and USDA to provide technical assistance and training – so the goal is to identify what is needed. One area that can be improved is the training of the utility boards and the tribal council. For a utility to reach sustainability, support from the utility board and the tribe is needed. Without the support of the boards and tribal council a utility manager cannot make progress towards improving the system. This could be achieved in part by making an effort to train tribal councils and utilities boards on what it takes to make a utility sustainable.

Operating sustainably is difficult under most circumstances, which is particularly noticeable for rural communities and tribes. The utility board members may be volunteers, or part time, and they may not know how to be a good board member, or the full impact of their decisions. Training for the board members would impart some of the lessons learned, and some of the responsibilities to the tribal board.

The tribal board could learn about how to separate a tribal utility from politics and how do you run it as a business. The ITF may focus on this issue, but is looking for feedback to see if it is worthwhile.

### **Response**

John Wheaton: Training board members is an excellent idea, and would be useful for the NPT.

Jacki Ponti-Lazaruk: What would be the best way to get tribal councils to participate in this effort?

John Wheaton: Board members need to be retrained on Robert's Rule and to create a schedule for replacing board members that have lost interest. There needs to be a value to being a board member, since this is not a paid activity. A structure to invite the public would be useful. Many things could make a board more effective. The utility board for the NPT has two liaisons, and they do not understand the utility operations beyond their own specialties. Trying to get the information out through the utility board can be difficult.

Jacki Ponti-Lazaruk: How can the training be delivered so it is best received by the tribal council?

John Wheaton: It can be challenging to have the utility board come to tribal council meetings with the documentation needed. At the same time the utility board is making some decisions,

such as code alterations and a rate increase. The challenge is providing an incentive for board members. If you have a good plan, but there is no education for the tribal council members, they may be upset with the plan because of its finances. The tribal council may say that they are already funding the utility with a certain amount, and that should be sufficient. Members of the tribal council are senior citizens, and they may not understand everything that is involved in operating a system. The utility is making things happen, but it takes a lot of organizing.

Marta Burg: There is an upcoming Region 9 discussion that in February with tribal representatives. Marta offered to ask the tribal representatives about how best to present a training, and how to set it up.

Linda Reeves: For successful trainings, it is helpful to cover the travel costs to attend the training.

A participant mentioned that there was an email from Marie Barry, about circuit riders who work with tribes and are interested in this type of training. The Washoe Tribe and the Nevada Rural Water organization have done this work before, and have a relationship with the tribes. This may be a way to find the organizations that already have relationships with tribes.

Jacki Ponti-Lazaruk: USDA provides technical assistance and training grants, as well as EPA technical assistance and training. Every year there are great proposals, and they could put a priority on certain areas. They may be open to exploring options for the technical trainings going forward, and could give extra points for programs with trainings for the tribal councils.

Dave Clark: RCAC is the western RCAP affiliate and they work with many tribes. Dave offered to ask people at RCAC about how to best present the information to tribal councils.

Jacki noted that RCAC did a wonderful job putting together a sustainability guide with USDA funds this year and that it could be used as the basis for some training this year. The report is online at RCAP.org

Dave also mentioned that when boards are required to be trained, the number of violations and problems decrease.

John Wheaton: It would be helpful to have trainings for board member. If someone offers training for them to be more effective, that would be helpful to the tribal utility. John also suggested that the training could be put it on tape, so it could be watched several times.

Jacki Ponti-Lazaruk: Another issue that needs to be a core concept is the value of being a board member. Being a board member comes with a lot of responsibility, but not always a lot of payback. How can a tribal council increase the value of the work from board members?

John Wheaton: Board member work definitely should be valued more. They are charged with the authority of water and wastewater decision making, so they have a lot of responsibility. The utility has to get its budget approved yearly, but the tribal council can view the needs of the utility as a low priority even though they have accepted and approved funding for projects. The

tribe will see the project through in funding, but the tribal council does not see the utility as a priority, since it is providing the water. John thinks that the operators are underpaid, and the turnover rate is close to 100%. Training new operators results in extra costs. Every time the utility is struggling with an issue, it comes down finance issues.

*Common Project Engineering Report among the Agencies (Dana Baer)*

Discussion on this item was postponed until the next meeting.

**G. Future Meeting Schedule, Action Item List Review and Next Steps (Matt Richardson)**

Matt Richardson explained that ITF meetings will now be held once every two months, on the third Wednesday of every odd numbered month. The next meeting is on March 21, 2012.

The following are the action items for the March 21<sup>st</sup> meeting.

- Marta Burg offered at an upcoming tribal meeting to ask the tribal representatives about how best to present a training for utility board members, and how to set it up.
- Dave Clark offered to ask people at RCAC about how to best present information to tribal councils.
- Notes from the December 2011 call were sent out in draft form, please send any corrections to Matt Richardson.
- Please inform Matt Richardson of any scheduling conflicts with the new meeting schedule.
- Please review Commonalities document and send any comments or suggestions to Matt Richardson.